

  
**SIEMENS**

PATENT  
Attorney Docket No. 2002P16048US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

Inventor:	T. Hanna et al.	)	Group Art Unit:	2452
		)		
Serial No.:	10/724,799	)	Examiner:	B. Whipple
		)		
Filed:	December 1, 2003	)	Conf. No.	5524
		)		
Title	<b>METHOD FOR MONITORING AN APPLICATION IN A PACKET SWITCHING NETWORK</b>			

**Commissioner For Patents**  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

DECLARATION OF THORSTEN LAUX UNDER 37 CFR 1.132

Serial/No. 10/724,799

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1. I, Thorsten Laux, a citizen of Germany, hereby declare and state as follows:
2. I am a co-inventor of the present application and have been continuously employed by Siemens Aktiengesellschaft and thereafter by Siemens Enterprise Communications GmbH & Co KG, which is a corporate affiliate of the Assignee Siemens Aktiengesellschaft, since Oct. 2000. I am currently a solution architect and prior to that I was a software developer primarily in the area of telecommunications middleware.
3. I received a Masters of Science degree in Computer Science (Diplom-Informatiker) in September 2000 from the University Paderborn, Germany.
4. I understand that the USPTO Examiner has rejected certain claims in the above-identified application on the basis that those claims are obvious by the teaching of McDowell et al. (US 2002/0035605) in view of Tzann-en Szeto (US 2004/0215731).
5. The term "register...in a list" would be understood by those skilled in the art to mean to record in a list. Thus, the limitation of "registering the software application ... in a list" would be understood as record the software application in the list and the limitation of "registering a presence application in the list" would be understood as record the presence application in the list.
6. I understand that the Examiner equates McDowell's "The Presence Server ...power...the buddy list" [0052] to the limitation "registering a presence application in the list". McDowell describes that wireless subscribers are registered in the buddy list in order to enable detecting when the devices of the wireless subscribers are on or off. McDowell further describes that IM users are registered in the buddy list to enable IM users to communicate with each other by sending instant messages. The Presence Server powers the buddy list, which would be understood by those skilled in the art to mean that the Presence Server controls or manages the buddy list to detect the presence of the wireless devices or IM user in the list. Based on the above, one skilled in the art would not reasonably interpret McDowell's "The Presence Server ...power...the buddy list" [0052] to the limitation "registering a presence application in the list".
7. The term "state of the software application" would be understood by those skilled in the art to mean a condition of the software application. I understand that the Examiner equates the statuses described in paragraph [0052] and of Table 1 to "state of the software application", more specifically to the state of the IM program. In paragraph [0052], McDowell describes personal settings, which are what the instant message user has selected to display as a status. What the

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user selects to display as a status would not reasonably be considered by those skilled in the art as a condition of the IM program. Based on the above, personal settings would not reasonably be interpreted by those skilled in the art as a state of the software

8. Furthermore, in TABLE 1, McDowell describes a device state, which is a condition of the device and not a condition of the IM program. Based on the above, a device state would not reasonably be interpreted by those skilled in the art as a state of the software.

9. I understand that the Examiner considers McDowell's IM program as the software application. An IM program is used by IM clients to communicate with each other, thus, McDowell describes the IM application are on the client side of the network and not the server side. However, the software application is at the server side in the claimed invention. Furthermore, the claimed invention is directed to remotely monitoring the software application. This would be understood by those skilled in the art that the software application is monitored without the presence of user (client) at the server side. In addition, one skilled in the art would recognize, at most the IM program could be at Applicant's end user device (client side) but not at the server side. Based on the above, one skilled in the art would understand that claimed software application is not an IM program.

10. All statements made herein of my own knowledge are true, and all statements made of information and belief are believed true. I acknowledge that willful false statements and the like are punishable by fine, imprisonment or both, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 2010-02-16

By: Thorsten Laux  
Thorsten Laux